IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

GIFT TAX REFERENCE No 1 of 1994

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI
and
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

COMMISSIONER OF GIFT-TAX

Versus

NAVNITLAL SAKARLAL SODHAN

Appearance:

1. GIFT TAX REFERENCE No. 1 of 1994
MR TANVISH BHATT, Advocate, FOR MR MANISH R BHATT
Standing Counsel for the Revenue
NOTICE SERVED on the Respondent

CORAM : MR.JUSTICE R.K.ABICHANDANI
and
MR.JUSTICE K.M.MEHTA

Date of decision: 03/05/2003

ORAL JUDGEMENT

(Per : MR.JUSTICE R.K.ABICHANDANI)

1. The Income Tax Appellate Tribunal, Ahmedabad Bench "C" has referred the following question for the opinion of this Court under Section 26 of the Gift Tax Act, 1958 :

"Whether the Appellate Tribunal is right in law and on facts in annulling the order u/s 15(3) of the G.T.Act holding that the right of revocation did not amount to gift as made out by the Gift-Tax Officer?"

2. We have today answered a similar question referred by the Tribunal in Gift Tax Reference No.6 of 1988. This matter, however, relates to the Assessment Year 1982-83, while the other matter was in respect of the Assessment Year 1971-72.

3. For the reasons which are given in our judgement rendered today (copy of which is enclosed herewith), the question referred to us is answered in favour of the assessee and against the revenue since the revocation made by the assessee on 31-12-1970 was not of the trust or of the transfer of trust property to the trustees which was already done under the Deed of Trust dated 11-4-1961 and there was no fresh gift under the said subsequent deed dated 31-12-1970. The reference stands disposed of accordingly. There shall be no order as to costs.

[R.K.ABICHANDANI, J.]

[K.M.MEHTA, J.]

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